
DEPARTMENT OF TRANSPORTATION**Research and Special Programs
Administration****49 CFR Parts 107, 171, 172, 173, 176,
177, 178, and 180****[Docket Nos. HM-183, 183A; Amdt. Nos.
107-20, 171-100, 172-115, 173-212, 176-27,
177-71, 178-89, and 180-2]****RIN 2137-AA42****Requirements for Cargo Tanks;
Extension of Effective Date****AGENCY:** Research and Special Programs
Administration (RSPA), DOT.**ACTION:** Final rule; revision of effective
date and partial response to petitions for
reconsideration.**SUMMARY:** This document revises the
effective date for a final rule issued
under Docket Nos. HM-183/183A (June
12, 1989; 54 FR 24982). In addition, this
document makes clarifications and
specifies compliance dates for certain
provisions contained in the final rule.
RSPA is taking this action in response to
petitions for reconsideration. This action
partially responds to certain of the
petitions for reconsideration and
provides additional time for RSPA to
fully evaluate and determine the merits
of other issues raised by petitioners.**DATES:** *Effective:* The final rule
published under Docket HM-183/183A
on June 12, 1989 (54 FR 24982), and the
amendments contained herein are
effective September 1, 1990. *Compliance:*
However, compliance with the
regulations as amended in part 180, with
the exception of those concerning
registration and design certification, is
authorized from June 12, 1989.**FOR FURTHER INFORMATION CONTACT:**Charles Hochman, (202) 366-4545, or
Hattie Mitchell, (202) 366-4488, Office
of Hazardous Materials
Transportation, Research and Special
Programs Administration, U.S.
Department of Transportation, 400
Seventh Street SW., Washington, DC
20590-0001; orRichard Singer, (202) 366-2994, Office of
Motor Carrier Safety, Federal
Highway Administration, U.S.
Department of Transportation, 400
Seventh Street SW., Washington, DC
20590-0001.**SUPPLEMENTARY INFORMATION:** On June
12, 1989, RSPA published a final rule
(Docket Nos. HM-183/183A; 54 FR
24982) establishing new standards
pertaining to the use, requalification,
and manufacture of cargo tank motor
vehicles. On September 15, 1989, RSPA
published a document (54 FR 38233)
which extended the closing date for
receiving petitions for reconsideration
from September 12, 1989 to November
14, 1989, and similarly extended the
effective date of the final rule from
December 12, 1989 to February 12, 1990.
On December 6, 1989, RSPA published
another document (54 FR 50382) which
further extended the effective date to
June 12, 1990, allowing additional time
for RSPA and FHWA to study issues
raised in the many petitions for
reconsideration received in response to
the final rule and effectively suspending
mandatory compliance dates in the final
rule. RSPA has now received over 1,000
petitions, some of which are substantive
in nature. Because resolving certain
issues has taken longer than anticipated,
RSPA is extending the effective date of
the final rule to September 1, 1990. RSPA
expects to publish an amended final rule
based on the merits of certain petitions
by the end of August 1990.In the two previous extension
documents, RSPA stated that the
compliance dates would be addressed in
a separate document. RSPA intended to
address both the compliance dates and
the issues raised in the petitions in the
same document. However, several
petitioners and numerous telephone

callers have requested that RSPA specify the compliance dates early enough to allow persons affected by the final rule an opportunity to adjust their scheduling for compliance with the applicable provisions. RSPA agrees that these dates are essential for planning and scheduling purposes and, therefore, is addressing the compliance dates in this document rather than waiting until it completes its reconsideration with respect to the other issues in the petitions.

RSPA has given full consideration to the issues raised by petitioners concerning time frames for implementing the various provisions contained in the final rule. With certain exceptions, the compliance dates contained in this document are consistent with those recommended by petitioners.

With regard to construction of cargo tanks, the Truck Trailer Manufacturers Association (TTMA) petitioned RSPA to allow the continued construction of MC 306, MC 307 and MC 312 cargo tanks for a period of three years (instead of the 18 months provided in the final rule) and that construction of all DOT 406, DOT 407 and DOT 412 cargo tanks be postponed for a period of two years. TTMA stated that this two-year postponement is necessary because two years is the minimum development cycle for a new cargo tank. RSPA has been informed that the development of a new cargo tank may take two years. To provide for an orderly transition, particularly for small businesses, RSPA accepts TTMA's petition to allow construction of MC 306, MC 307 and MC 312 cargo tanks for three years from the effective date of the final rule. RSPA believes manufacturers of MC 331 and MC 338 cargo tanks have similar need for time to implement changes in structural design requirements. Thus, to provide for an orderly transition, RSPA will allow continued construction of MC 331 and MC 338 cargo tanks in accordance with current §§ 178.337-3 and 178.338-3, respectively, for three years. However, no cargo tank may be marked or certified to the current MC 331 or MC 338 specification with respect to structural design, or to the MC 306, MC 307 or MC 312 specification after August 31, 1993.

RSPA disagrees with TTMA's request that construction of DOT 406, DOT 407, and DOT 412 cargo tanks be postponed for two years. A two year prohibition on the construction of these new specification cargo tanks would impose an unnecessary constraint on commerce and would penalize manufacturers who are presently in a position to commence

manufacture of cargo tanks meeting the new specifications. In addition, a mandatory delay in construction of these new specification cargo tanks would unnecessarily delay implementation of the safety features contained in the new specifications. Therefore, RSPA is allowing construction of cargo tanks to the new specifications to begin on the effective date of this final rule.

RSPA has received over 900 petitions, including late-filled petitions, from members of the propane gas industry. These petitioners raised objections to an apparent prohibition, contained in § 173.33(e) of the final rule, against the retention of lading in the external piping and hose reels of MC 330 and MC 331 cargo tanks during transportation. It was not RSPA's intent in the final rule to apply § 173.33(e) to MC 330 and MC 331 cargo tank motor vehicles. It was intended, in both the proposed rule and the final rule, that this provision apply only to DOT specification cargo tanks used to transport liquid hazardous materials. The current requirements, at 49 CFR 178.337-9 and 178.337-10, require that piping be protected from accident damage in all cases and RSPA has no data indicating additional controls are needed. RSPA has informed the National Propane Gas Association of this position in a letter dated March 7, 1990.

Also, the wet line provision in § 173.33(e) does not apply to the transportation of hazardous materials having relatively low hazards which are authorized to be transported in nonspecification cargo tanks, even if a DOT specification cargo tank may be used. For example, § 173.33(e) does not apply to cargo tanks used to transport materials under §§ 173.118a (combustible liquids) and 173.131 (road asphalt, or tar, liquid).

Many petitioners, including the American Petroleum Institute (API), asked that RSPA broaden the exception granted to "fuels metered for road fuel tax purposes" to include other materials. These petitioners stated that many materials are metered for other than tax purposes, and the use of a tax as a criteria for providing exceptions is inappropriate, with no safety basis. Petitioners also pointed out that many other petroleum products are not taxed, and are considered "less hazardous" than gasoline. Finally, petitioners stated that a large percentage of cargo tank motor vehicles, currently transporting materials which are permitted under the exception to be retained in the piping, exceed the specified maximum piping

volume limitation. These petitioners urged RSPA to grandfather existing cargo tanks transporting gasoline in "wet lines" which exceed the 50 gallon volume limit.

The comments expressed by petitioners asking that the exception in § 173.33(e) be broadened raised new information which was not brought to our attention during the comment period for the NPRM, or during any of the subsequent hearings or public meetings. We now realize that the retention of hazardous materials product in piping during transportation is more prevalent than was indicated earlier during development of the final rule. These petitions are under consideration and will be addressed further in the subsequent document. However, RSPA anticipates certain revisions will be made to the final rule.

RSPA has been petitioned to make certain revisions in the registration requirements contained in new part 107, subpart F of the final rule. These petitions are under review. Based on the merits of several petitions, RSPA intends to make certain revisions to the final rule. RSPA has already received over 150 registration statements. RSPA will delay processing these statements until the issues raised by petitioners are resolved. In reviewing the registration statements, RSPA finds that many statements do not contain the required information. These incomplete statements will be returned to the applicants along with an indication of the reasons for their return.

Some petitioners confused the effective date of the final rule with the deadline dates for performing the first periodic tests and inspections, which were not specified in the final rule. In addition, several petitioners were under the misunderstanding that existing cargo tanks had to be in compliance with the various inspection and test requirements prior to the effective date of the final rule. Therefore, as suggested by several petitioners, the following tables are provided for clarity. Table I sets forth the time interval for performing the periodic tests and inspections prescribed in § 180.407(c) and the date by which the first test or inspection must be performed. The time for completing the first external visual inspection on vacuum tanks has been extended to allow owners additional time to complete the inspection. Table II sets forth the compliance dates for certain other requirements found in the final rule.

TABLE I.—COMPLIANCE DATES—INSPECTIONS AND RETESTS UNDER § 180.407(C)

Test or inspection (cargo tank, configuration, and service)	Date by which first test must be completed (see note)	Interval period after first test
External Visual Inspection: All cargo tanks designed to be loaded by vacuum with full opening rear heads	Sept. 1, 1991.....	6 months.
All other cargo tanks	.....do.....	1 year.
Internal Visual Inspection: All insulated cargo tanks, except MC 330, MC 331, MC 338	.....do.....	Do.
All cargo tanks transporting lading corrosive to the tank	.....do.....	Do.
All other cargo tanks, except MC 338	Sept. 1, 1995.....	5 years.
Lining/Cladding Inspection: All lined or clad cargo tanks transporting lading corrosive to the tank	Sept. 1, 1991.....	1 year.
Leakage Test: All cargo tanks except MC 338	.....do.....	Do.

TABLE I.—COMPLIANCE DATES—INSPECTIONS AND RETESTS UNDER § 180.407(C)—Continued

Test or inspection (cargo tank, configuration, and service)	Date by which first test must be completed (see note)	Interval period after first test
Pressure Retest: All cargo tanks which are insulated with no manhole or insulated and lined, except MC 338	.....do.....	Do.
All cargo tanks designed to be loaded by vacuum with full opening rear heads	Sept. 1, 1992.....	2 years.
MC 330 and MC 331 cargo tanks in chlorine service	.....do.....	Do.
All other cargo tanks	Sept. 1, 1995.....	5 years.
Thickness Test: All unlined cargo tanks in corrosive service, except MC 338.	Sept. 1, 1992.....	2 years.

NOTE: If a cargo tank is subject to an applicable inspection or test requirement under the regulations in effect on August 31, 1990, and the due date (as specified by a requirement in effect on August 31, 1990) for completing the required inspection or test occurs before the compliance date listed in Table I, the earlier date applies.

TABLE II.—MARKING, CERTIFICATION AND CONSTRUCTION REQUIREMENTS

Applicable provision	Compliance date
No cargo tank may be marked or certified to the current MC 331 or MC 338 specification (§§ 178.337-3 and 178.338-3), or to the MC 306, MC 307, MC 312 specifications after (§ 180.405(c)(1)).	Aug. 31, 1993.
Persons who repair MC-series cargo tanks must have National Board or ASME certification after (§ 180.413(a)).	Dec. 31, 1991.

TABLE II.—MARKING, CERTIFICATION AND CONSTRUCTION REQUIREMENTS—Continued

Applicable provision	Compliance date
Vacuum cargo tanks must be equipped with a self-closing valve system before (§ 180.405(f)).	Sept. 1, 1993.
Retrofit or certification of manhole assemblies must be completed before (§ 180.405(g)).	Sept. 1, 1995.
Leak-tight pressure relief valves must be installed when replacing reclosing pressure relief valves on cargo tanks after (§§ 178.345-10(b) and 180.405(h)).	Aug. 31, 1992.
Re-marking of MAWP on affected MC-series cargo tanks must be completed before (§§ 173.33(c)(2) and 180.405(k)).	Jan. 1, 1991.
Construction of DOT 406, DOT 407, DOT 412 cargo tanks authorized after.	Aug. 31, 1990.
New construction of DOT 400 series cargo tanks must be equipped with dual function pressure relief devices after (§ 178.345-10(b)).	Aug. 31, 1995.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, chapter I, subchapter C of the Code of Federal Regulations, is amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

1. The authority citation for part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806; 49 CFR part 1, unless otherwise noted.

§ 173.33 [Amended]

2. Section 173.33, as revised at 54 FR 25005, June 12, 1989, is amended as follows:

a. In paragraph (c)(4), remove the date "December 12, 1989" and add, in its place, the date "September 1, 1990".

b. In paragraph (d)(1), remove the date "December 12, 1989" the first time it appears and add, in its place, the date "September 1, 1990", and remove the date "December 12, 1989" the second time it appears and add, in its place, the date "August 31, 1990".

PART 178—SHIPPING CONTAINER SPECIFICATIONS

3. The authority citation for part 178 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1.

§ 178.337-6 [Amended]

4. In § 178.337-6(a), as revised at 54 FR 25017, June 12, 1989, remove the date "December 12, 1989" and add, in its place, the date "August 31, 1990".

§ 178.345-10 [Amended]

5. In § 178.345-10(b)(3) introductory text, as added at 54 FR 25025, June 12, 1989, remove the date "June 6, 1994" and add, in its place, the date "August 31, 1995", and remove the date "June 12, 1991" and add, in its place, the date "August 31, 1992".

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

6. The authority citation for Part 180 is revised to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1806, 1808; 49 CFR part 1.

§ 180.405 [Amended]

7. Section 180.405, as added at 54 FR 25033, June 12, 1989, is amended as follows:

a. In the last sentence in paragraph (b), remove the date "June 12, 1989" and add, in its place, the date "August 31, 1990", and remove the date "December 5, 1990" and add, in its place, the date "August 31, 1993".

b. In the table in paragraph (c)(1), in the line entry "MC 306, MC 307, MC 312", remove the date "Dec. 5, 1990" and add, in its place, the date "Sept. 1, 1993".

c. In paragraph (f) introductory text, remove the date "December 12, 1989" and add, in its place, the date "September 1, 1990", and in paragraphs (f)(2)(i) and (f)(4)(i), remove the date "June 12, 1992" each time it appears and add, in each place, the date "September 1, 1993".

d. In paragraph (g)(1), remove the date "June 13, 1994" and add, in its place, the date "August 31, 1995"; remove the date "December 12, 1989" the first time it appears and add, in its place, the date "September 1, 1990"; remove the date "December 12, 1989" the second time it appears and add, in its place, the date "September 1, 1990"; and remove the date "December 12, 1989" the third time it appears and add, in its place, the date "August 31, 1990".

e. In paragraph (g)(2), remove the date "December 12, 1989" and add, both places it appears, the date "September 1, 1990", and remove the date "June 13, 1994" and add, in its place, the date "August 31, 1995".

f. In paragraph (g)(3), remove the date "June 13, 1994" and add, in its place, the date "August 31, 1995".

g. In paragraph (h), remove the date "June 12, 1991" and add, in its place, the date "August 31, 1992", and remove the date "June 13, 1994" and add, in its place, the date "August 31, 1995".

§ 180.407 [Amended]

8. In § 180.407(g)(1)(iv), as added at 54 FR 25036, June 12, 1989, remove the date "June 13, 1994" and add, in its place, the date "August 31, 1995".

§ 180.413 [Amended]

9. In § 180.413(a) introductory text, as added at 54 FR 25038, June 12, 1989, remove the date "December 5, 1990" and add, in its place, the date "January 1, 1992".

§ 180.417 [Amended]

10. In § 180.417(a)(3) heading, as added at 54 FR 25039, June 12, 1989, remove the date "December 12, 1989" and add, in its place, the date "September 1, 1993".

Issued in Washington, DC on May 15, 1990, under authority delegated in 49 CFR part 1.53.

Travis P. Dungan,

Administrator.

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